

**DECISION**



**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D.C. 20548

30222

**FILE:**

B-215800

**DATE:** January 22, 1985

**MATTER OF:**

Deuel and Associates, Inc.

**DIGEST:**

Where the protester received a portion of the awardee's technical proposal in response to a Freedom of Information Act request but filed its protest based on factual errors allegedly found in that portion more than 10 working days after such receipt, the protest is untimely filed.

Deuel and Associates, Inc. (Deuel), protests the award of a contract to Bendix Field Engineering Corporation (Bendix) under request for proposals (RFP) No. 4056 issued by the Department of the Interior. The RFP was for services in hosting a Chinese scientific delegation attending training in Albuquerque, New Mexico. Deuel contends that there were "major errors of fact" in Bendix's technical proposal with regard to restaurants, cultural activities, and sports in the Albuquerque area.

The protest is untimely. The record shows that the latest the basis for protest was known or should have been known was when Interior responded to Deuel's Freedom of Information Act (FOIA) request seeking Bendix's technical proposal, following a debriefing at which Deuel was informed that its proposal was found technically acceptable but that award had been made to Bendix based on a higher technical score and lower evaluated cost. Our Bid Protest Procedures, 4 C.F.R. § 21.2 (1984), require protests to be filed within 10 working days after the basis for them is known or should have been known. Deuel did not protest to our Office until 14 working days after receipt of the FOIA documents.

In any event, we find nothing in the alleged factual errors in Bendix's technical proposal which would call into question Interior's technical evaluation. The determination of the relative merits of a proposal is primarily a matter of administrative discretion. General Management Systems, Inc., B-214246, Sept. 20, 1984, 84-2 C.P.D. § 351. In light of this, procuring officials enjoy a reasonable degree of discretion in the evaluation of

031012

proposals and their decisions will not be disturbed unless shown to be arbitrary or in violation of the procurement laws and regulations. Id.

The RFP provided that the offerors' technical proposals would be evaluated in the areas of approach to the accomplishment of the work, current and previous organizational qualifications for the type of work required by the RFP, and proposed plans for housing and entertaining the Chinese delegation. Of these evaluation areas, approach to the work was the most important under the terms of the RFP. In evaluating Bendix's technical proposal, the record shows that Interior found that Bendix had a very good understanding of the RFP's requirements and a "sound and complete approach." As to the factual errors alleged by Deuel, the record shows that they relate to the least important RFP evaluation criteria of proposed plans for housing and entertaining the Chinese delegation and that any errors Bendix may have made in listing restaurants and sports activities in the Albuquerque area were not considered serious by Interior. The record also reveals that Interior found that the business coordinator Bendix intended to use had lived in the Albuquerque area for the past 10 years and would thus be capable of suggesting appropriate places for activities like sightseeing and eating.

We dismiss Deuel's protest.



Comptroller General  
of the United States